

party to whom such redemption price was paid.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7180, 37 FR 7319, Apr. 13, 1972]

**§ 301.6338-1 Certificate of sale; deed of real property.**

(a) *Certificate of sale.* In the case of property sold as provided in section 6335 (relating to sale of seized property), the district director shall give to the purchaser a certificate of sale upon payment in full of the purchase price. A certificate of sale of real property shall set forth the real property purchased, for whose taxes the same was sold, the name of the purchaser, and the price paid therefor.

(b) *Deed to real property.* In the case of any real property sold as provided in section 6335 and not redeemed in the manner and within the time prescribed in section 6337, the district director shall execute (in accordance with the laws of the State in which the real property is situated pertaining to sales of real property under execution) to the purchaser of such real property at the sale or his assigns, upon surrender of the certificate of sale, a deed of the real property so purchased, reciting the facts set forth in the certificate.

(c) *Deed to real property purchased by the United States.* If real property is declared purchased by the United States at a sale pursuant to section 6335, the district director shall at the proper time execute a deed therefor and shall, without delay, cause the deed to be duly recorded in the proper registry of deeds.

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**§ 301.6339-1 Legal effect of certificate of sale of personal property and deed of real property.**

(a) *Certificate of sale of property other than real property.* In all cases of sale pursuant to section 6335 of property (other than real property), the certificate of such sale—

(1) *As evidence.* Shall be prima facie evidence of the right of the officer to make such sale, and conclusive evidence of the regularity of his proceedings in making the sale; and

(2) *As conveyance.* Shall transfer to the purchaser all right, title, and inter-

est of the party delinquent in and to the property sold; and

(3) *As authority for transfer of corporate stock.* If such property consists of corporate stocks, shall be notice, when received, to any corporation, company, or association of such transfer, and shall be authority to such corporation, company, or association to record the transfer on its books and records in the same manner as if the stocks were transferred or assigned by the party holding the stock certificate, in lieu of any original or prior certificate, which shall be void, whether canceled or not; and

(4) *As receipts.* If the subject of sale is securities or other evidences of debt, shall be a good and valid receipt to the person holding the certificate of sale as against any person holding or claiming to hold possession of such securities or other evidences of debt; and

(5) *As authority for transfer of title to motor vehicle.* If such property consists of a motor vehicle, shall be notice, when received, to any public official charged with the registration of title to motor vehicles, of such transfer and shall be authority to such official to record the transfer on his books and records in the same manner as if the certificate of title to such motor vehicle were transferred or assigned by the party holding the certificate of title, in lieu of any original or prior certificate, which shall be null and void, whether canceled or not.

(b) *Deed to real property.* In the case of the sale of real property pursuant to section 6335—

(1) *Deed as evidence.* The deed of sale given pursuant to section 6338 shall be prima facie evidence of the facts therein stated; and

(2) *Deed as conveyance of title.* If the proceedings of the district director as set forth have been substantially in accordance with the provisions of law, such deed shall be considered and operate as a conveyance of all the right, title, and interest the party delinquent had in and to the real property thus sold at the time the lien of the United States attached thereto.

(c) *Effect of junior encumbrances.* A certificate of sale of personal property

given or a deed to real property executed pursuant to section 6338 discharges the property from all liens, encumbrances, and titles over which the lien of the United States, with respect to which the levy was made, has priority. For example, a mortgage on real property executed after a notice of a Federal tax lien has been filed is extinguished when the district director executes a deed to the real property to a purchaser thereof at a sale pursuant to section 6335 following the seizure of the property by the United States. The proceeds of such a sale are distributed in accordance with priority of the liens, encumbrances, or titles. See section 6342(b) and the regulations thereunder for provisions relating to the distribution of surplus proceeds. See section 7426(a)(2) and the regulations thereunder for judicial procedures with respect to surplus proceeds.

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#### § 301.6340-1 Records of sale.

(a) *Requirement.* Each district director shall keep a record of all sales under section 6335 of real property situated within his district and of redemptions of such property. The records shall set forth (1) the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed and all proceedings in making such sale, the amount of expenses, the names of the purchasers, the date of the deed, and, in the case of redemption of the property, (2) the date of such redemption and of the transfer of the certificate of sale, the amount of the redemption price, and the name of the party to whom such redemption price was paid.

(b) *Copy as evidence.* A copy of such record, or any part thereof, certified by the district director shall be evidence in any court of the truth of the facts therein stated.

#### § 301.6341-1 Expense of levy and sale.

The district director shall determine the expenses to be allowed in all cases of levy and sale. Such expenses shall include the expenses of protection and preservation of the property during the period subsequent to the levy, as well as the actual expenses incurred in con-

nection with the sale thereof. In case real and personal property (or several tracts of real property) are sold in the aggregate, the district director shall properly apportion the expenses to the real property (or to each tract).

#### § 301.6342-1 Application of proceeds of levy.

(a) *Collection of liability.* Any money realized by proceedings under subchapter D, chapter 64, of the Code or by sale of property redeemed by the United States (if the interest of the United States in the property was a lien arising under the provisions of the Internal Revenue Code), is applied in the manner specified in subparagraphs (1), (2), and (3) of this paragraph (a). Money realized by proceedings under subchapter D, chapter 64, of the Code includes money realized by seizure, by sale of seized property, or by surrender under section 6332 (except money realized by the imposition of a 50 percent penalty pursuant to section 6332(c)(2)).

(1) *Expense of levy and sale.* First, against the expenses of the proceedings or sale, including expenses allowable under section 6341 and amounts paid by the United States to redeem property.

(2) *Specific tax liability on seized property.* If the property seized and sold is subject to a tax imposed by any internal revenue law which has not been paid, the amount remaining after applying subparagraph (1) of this paragraph (a), shall then be applied against such tax liability (and, if such tax was not previously assessed, it shall then be assessed);

(3) *Liability of delinquent taxpayer.* The amount, if any, remaining after applying subparagraphs (1) and (2) of this paragraph (a), shall then be applied against the liability in respect of which the levy was made or the sale of redeemed property was conducted.

(b) *Surplus proceeds.* Any surplus proceeds remaining after the application of paragraph (a) of this section shall, upon application and satisfactory proof in support thereof, be credited or refunded by the district director to the person or persons legally entitled thereto. The delinquent taxpayer is the person entitled to the surplus proceeds